

Applicant : Whitted
Serial No. : 10/816,585
Filed : March 31, 2004
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Attorney Docket No.: 16113-1322001

Amendments to the Drawings:

The drawings are objected to under 37 C.F.R. § 1.83(a). The attached replacement sheet of drawings includes changes to FIG. 2A and replaces the original sheet including FIG. 2A. More specifically, FIG. 2A has been amended in order to expedite prosecution to remove a common controller in communication with a fan controller and a valve controller. Applicant respectfully requests withdrawal of the objections to the drawings under § 1.83(a).

Attachments following last page of this Amendment:

Replacement Sheet (1 page(s))

Annotated Sheet Showing Change(s) (1 page(s))

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed on March 12, 2009 (“Office Action”). Claims 34-56 are pending in the Application and stand rejected. Claims 1-33 have been previously canceled. Claims 34, 36, 43, and 49-50 have been amended to (1) incorporate features of dependent claims and/or (2) further clarify the claim language without substantively changing the scope of the claims. Claim 40 has been canceled. Applicant respectfully requests reconsideration and favorable action in this case.

Drawing Objections and Claim Rejections – 35 U.S.C. § 112

The Office Action objects to the drawings under 37 C.F.R. § 1.83(a) alleging that a “common controller” shown in FIG. 2A was not disclosed in the Application as filed. *See* Office Action at 2. In addition, claim 40, which recites “a valve controller operated by a common control system as the fan controller,” stands rejected under § 112, ¶¶ 1 and 2. *See* Office Action at 3-4. Applicant reasserts the previous responses to this objection to FIG. 2A and rejection of claim 40 and respectfully submit that the originally-filed disclosure describing communication between the control systems of the fans and valve would convey with reasonable clarity to one of ordinary skill in the art that Applicant had possession of the subject matter of claim 40, namely, “a valve controller operated by a common control system as the fan controller,” as of the filing date of the Application.

Nevertheless, in order to expedite prosecution, Applicant has amended FIG. 2A to render the pending objection moot and canceled claim 40 to obviate the pending rejection under § 112. Applicant cancels claim 40 without prejudice or disclaimer and respectfully reserves the right to pursue the subject matter of claim 40 in a continuing application. Applicant therefore requests withdrawal of the objection to FIG. 2A and rejection of claim 40.

Claim Rejections – 35 U.S.C. § 103(a)

The Office Action rejects the claims under 35 U.S.C. § 103(a):

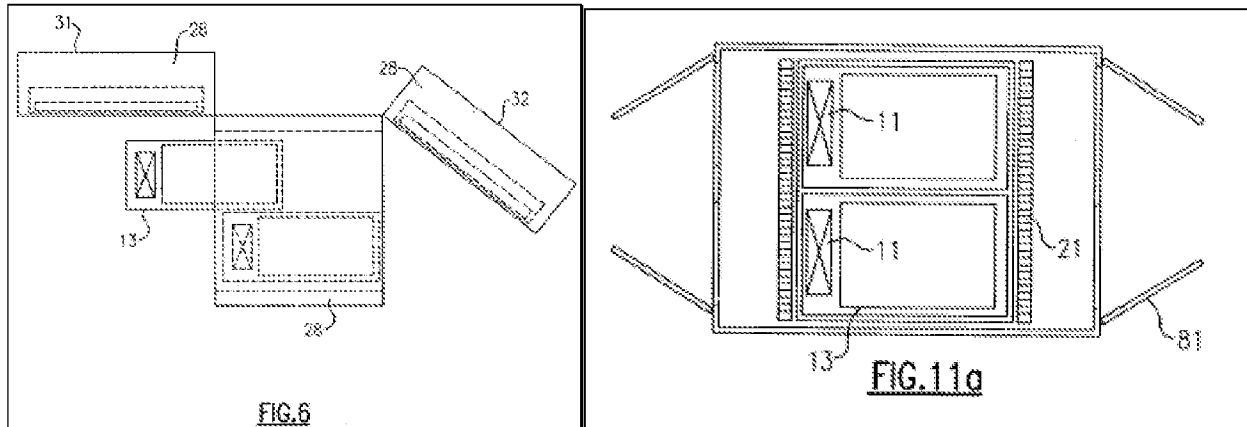
- Claims 34-36, 38-39, 43-45, 49-50, 52 are rejected as unpatentable over U.S. Patent Application Publication 2004/0100770 to Chu *et al.* (“Chu”) in view of U.S. Patent Application Publication 2003/0053293 to Beitelmal *et al.* (“Beitelmal”);

- Claims 37, 46 and 51 are rejected as unpatentable over *Chu* in view of *Beitelmal* and further in view of U.S. Patent No. 5,740,018 to Rumbut, Jr. (“*Rumbut*”);
- Claims 41 and 47 are rejected as unpatentable over *Chu* in view of *Beitelmal* and further in view of U.S. Patent No. to Laffranchi (“*Laffranchi*”);
- Claims 42, 48 and 55 are rejected as unpatentable over *Chu* in view of *Beitelmal* and further in view of U.S. Patent No. 6,407,567 to Etter (“*Etter*”);
- Claim 53 is rejected as unpatentable over *Chu* in view of *Beitelmal* and further in view of U.S. Patent No. 6,530,347 to Takahashi *et al.* (“*Takahashi*”);
- Claim 54 is rejected as unpatentable over *Chu* in view of *Beitelmal* in view of *Takahashi* and further in view of *Laffranchi*; and
- Claim 56 is rejected as unpatentable over *Chu* in view of *Beitelmal* and further in view of U.S. Patent Application Publication 2003/0147214 to Patel *et al.* (“*Patel*”).

Applicant respectfully traverses the rejections and all the assertions and holdings therein, because the relied upon portions of the cited references, whether individually or in combination, fail to teach or suggest various aspects of the present claims, as amended.

For example, claim 34 has been amended to include portions of dependent claim 36 and to clarify particular claim language without changing the scope of this claim, which recites “a rack structure holding a plurality of computer boards . . . wherein the rack structure is one of a plurality of rack structures arranged to form a pair of rows on each side of a central aisle, the plurality of computer boards accessible through at least one of the open first and second sides through the central aisle.” *Chu*, which the Office Action relies on to purportedly show rack structures arranged to form a pair of rows on each side of a central aisle, fails to teach or suggest the full language of this feature. Specifically, the so-called “aisle” of *Chu*, as the Office Action concedes, is a “small” space in between the stacked electronics drawers 13 of *Chu*’s enclosure system. *See* Office Action at 13 (citing *Chu* at Fig. 11a). But to the extent these electronics drawers 13 could be viewed as the claimed rack structures (which Applicant disputes), *Chu* does not teach or suggest that the drawers 13 could be accessible through this small space of the enclosure. Rather, *Chu* teaches that the drawers 13 are accessible by removing them through the

ends of the enclosure. *See Chu* at FIGS. 6 and 11a (below). In other words, *Chu* teaches that its alleged rack structures, including any such electronics mounted thereon, are accessible by sliding them out of the enclosure beside the small space in between the drawers 13 and not through this small space.



Nor would it have been obvious to modify *Chu* to make its drawers 13 “accessible” through this space according to the teachings of this reference. For instance, *Chu* discloses that one of its advantages is that removal of one or more of the drawers 13 as shown in FIG. 6 of this reference may allow for continued operation of the remaining drawers 13:

An electronics drawer 13 is also shown [in FIG. 6] partially open extending outward from the stack of electronics drawers. Note that under this condition the electronics in the unaffected drawers can continue to operate because nothing has been done to interrupt the air flow through said drawers.

Chu at [0044]. Any modification of *Chu* to account for its deficiencies with respect to the above-referenced feature of claim 34 may eliminate this alleged advantage of *Chu*, and thus, would not have been obvious to one of ordinary skill in the art.

For at least the foregoing reasons, Applicant respectfully submits that amended claim 34 and all claims depending therefrom are allowable over the cited references. Applicant further submits that amended claims 43 and 49 and all claims depending therefrom are allowable for at least the reasons provided above with respect to amended claim 34. Accordingly, Applicant respectfully requests reconsideration and allowance of claims 34-39 and 41-56 over the pending § 103 rejection in view of the references of record.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicant hereby requests a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

No fees are believed due. If this is incorrect, however, the Commissioner is authorized to apply any charges or credits to Deposit Account 06-1050, referencing the attorney docket number shown above.

Respectfully submitted,

Date: May 12, 2009

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